

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JONATHAN LEE RICHES,

Plaintiff,

v.

BTK KILLER, et al.,

Defendants.

No. C 07-6111 MJJ (PR)

**ORDER OF DISMISSAL**

Plaintiff, a federal prisoner proceeding pro se, filed this pro se complaint against the “BTK Killer,” Dennis Rader (“Rader”), Wichita Kansas, and Michael Devlin (“Devlin”).

A federal court must conduct a preliminary screening in any case in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity. See 28 U.S.C. § 1915A(a). In its review, the court must identify any cognizable claims and dismiss any claims that are frivolous, malicious, fail to state a claim upon which relief may be granted or seek monetary relief from a defendant who is immune from such relief. See id. § 1915A(b)(1),(2). Pro se pleadings must, however, be liberally construed. See Balistreri v. Pacifica Police Dep’t, 901 F.2d 696, 699 (9th Cir. 1988).

Sections 1915A and 1915(e)(2) accord judges the unusual power to pierce the veil of the complaint's factual allegations and dismiss as frivolous those claims whose factual contentions are clearly baseless. See Denton v. Hernandez, 504 U.S. 25, 32 (1992). Examples are claims describing fantastic or delusional scenarios with which federal district judges are all too familiar. See Neitzke v. Williams, 490 U.S. 319, 328 (1989). To pierce the

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1 veil of the complaint's factual allegations means that a court is not bound, as it usually is  
2 when making a determination based solely on the pleadings, to accept without question the  
3 truth of the plaintiff's allegations. See Denton, 504 U.S. at 32. A finding of factual  
4 frivolousness is appropriate when the facts alleged rise to the level of the irrational or the  
5 wholly incredible, whether or not there are judicially noticeable facts available to contradict  
6 them. See id. at 32-33.

7 Plaintiff alleges that defendants Rader and Devlin are conspiring "to commit federal  
8 crimes" in order to avoid serving sentences in state prison. He alleges that these defendants  
9 will then be transferred to his prison, and that he "will be used for midwestern experiments,"  
10 and that he "will be turned into plain oatmeal." He further alleges that Rader's initials "DR"  
11 "stands for Dr. Pepper," and that Devlin delivers pizza." Plaintiff states, "I like neither." As  
12 plaintiff's allegations are clearly baseless, irrational or wholly incredible, the complaint will  
13 be dismissed as frivolous under sections 1915A and 1915(e)(2).

14 For the foregoing reasons, this action is DISMISSED.

15 The Clerk shall close the file.

16 IT IS SO ORDERED.

17 DATED: December 21, 2007



MARTIN J. JENKINS  
United States District Judge